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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,609	02/06/2002	Koji Fujiwara	48864-043	4463

7590 03/17/2005  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER
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BALI, VIKKRAM

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/066,609

Applicant(s)

FUJIWARA, KOJI

Examiner

Vikkram Bali

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-8 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 3-5, 9, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/6/2002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 and 13, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the result" and "the second" in lines 8 and 10.

There is insufficient antecedent basis for this limitation in the claim.

Claims 2-8 recites the limitation "the other image" in the claims. There is insufficient antecedent basis for this limitation in the claim.

- Claims 9-11 are also rejected because they depend upon the independent claim
- 8.

Claim 13 recites the limitation "the result" and "the second" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the result" and "the second" in line 13. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 6-8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshiaki (JP 61-138377) in view of Kazuhiro (JP 01-175076).

With respect to claim 2, Yoshiaki discloses shooting an object from different eye points, extracting an object area and obtaining the shoot conditions (see the constitution sections the subject is photographed the photographing conditions are obtained) as claimed. However, he fails to disclose the estimating the object area, as claimed. Kazuhiro teaches estimating the object area, (see constitution the image area is clipped by specifying the coordinates of the input device and the surrounding of the human body) as claimed. It would have been obvious to one ordinary skilled in the art at the time of invention to combine the two references as they are analogous because they are solving the similar problem of image editing. The process of image clipping can be incorporated into the Yoshiaki's system in order to have a system that provides reduction in operator processing load.

With respect to claims 6 and 7, Kazuhiro further teaches the estimating object area by data processing about the image by color information of a background area,

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(see constitution, the color images are corrected per the R,G,B and then stored, or the purpose of displaying) as claimed.

Claims 1, 8 and 12 are rejected for the same reasons as set forth in the rejection of claim 1, because claims 1, 8 and 12 are claiming similar subject matter as claimed in claim 1.

Claims 10 and 11 are rejected for the same reasons as set forth in the rejection of claims 6 and 7, because claims 10 and 11 are claiming similar subject matter as claimed in claims 6 and 7.

***Allowable Subject Matter***

5. Claims 13 and 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.


6. Claims 3-5 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vikram Bali  
Primary Examiner  
Art Unit 2623

vb  
March 14, 2005